

279 H. & G. 275, *where the plaintiff was nonsuited on a plea of property in the defendant, who had judgment for a return and *costs*, and the Court refused a writ of inquiry of damages to the defendant, the Court of Appeals held that it was right in so doing. "In cases falling within these Statutes the damages are such as are sustained before the institution of the suit. But to allow damages in such a case would be to give them for the injury arising from the institution of the suit, and the detention of the property by the plaintiff from that time, which would be a novel proceeding and justified by no analogy of law. The remedy of the defendant will be found by a suit on the replevin bond executed by the plaintiff, the condition of which is sufficiently comprehensive to indemnify the defendant from any injury he may sustain by a nonsuit;"³ though it is said in Tidd Prac. 887, that the damages are such as the defendant has sustained by the delay of his remedy in consequence of the replevin, and see Sedgwick on Damages, 583 *et seq.* 4th ed.

³ See Poe's Practice, secs. 444, 454 *et seq.*

STATUTES

Made at the PARLIAMENT begun at LONDON, and continued afterward by Prorogation and Adjournment to WESTMINSTER, Anno 21 HEN. VIII. and A. D. 1529.

CAP. IV.

The Sale of Lands by part of the Executors lawful.

Where divers sundry persons before this time, having other persons seised to their Uses of and in Lands and other Hereditaments to and for the Declaration of their Wills, have by their last Wills and Testaments willed and declared such their *said* Lands, Tenements, or other Hereditaments to be sold by their Executors, as well to and for the Payments of their Debts, Performance of their Legacies, necessary and convenient finding of their Wives, virtuous bringing up and advancement of their Children to Marriage, as also for other charitable Deeds to be done and executed by their Executors for the Health of their Souls. (2) And notwithstanding such Trust and Confidence so by them put in their *said* Executors, it hath oft times been seen, where such last Wills and Testaments of such